IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 394/2002

Date of Decision: 25.4.2007

Rajeshwari Devi and others. …Petitioners.

-versus-

State of H.P. & others. …Respondents.

Coram:

The Hon'ble Mr. Rajiv Sharma, J.

Whether approved for reporting?* No

For the petitioners : Mr. R.K. Guatam, Sr. Advocate with Ms. Archana Dutt, Advocate.
For the Respondent No.1 : Mr. M.S. Chandel A.G. with Mr. M.A. Khan, Dy.A.G.
For the respondent No.2 : Mr. Bhuvnesh Sharma, Advocate.

Rajiv Sharma, J. (oral):

This petition is directed against the order dated 14th July, 1999 passed by the Additional Director Consolidation of Holdings, Himachal Pradesh.

This court on 18th April, 2007 directed the respondents-State to produce the entire record on the basis of which the impugned order dated 14th July, 1999 was passed. Accordingly the record was produced by the Assistant Consolidation Officer from the office of the Directorate Consolidation of Holdings, H.P. today.

This exercise has been undertaken by the Court to satisfy itself whether the Consolidation Officer has afforded opportunity of hearing to the parties at the time when he visited the spot.

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* *Whether the reporters of the Local Newspapers may be allowed to see the Judgment? Yes*

I have perused the record produced by the Assistant Consolidation Officer. It is evident from the report of the Consolidation Officer that only the petitioners, namely, Rajeshwari Devi, Hans Raj, Smt. Roshani were present at the time of spot inspection by the Consolidation Officer. Meaning thereby that the petitioners, namely, Kumari Manju, Chhunka, Sanju, and Krishan Lal were not associated at the time of holding inquiry by the Consolidation Officer on the spot. The order dated 14.7.1999 is passed on the report of the Consolidation Officer. Since the Consolidation Officer has not taken into consideration the views of all the petitioners at the time of spot inspection, his report cannot be given any credence.

Accordingly the order dated 14th July, 1999 passed by the Consolidation Officer on the basis of report prepared at the back of the petitioner is liable to be quashed and set aside.

Therefore, the writ petition is allowed and the order dated14th July, 1999 is quashed and set aside and the matter is remitted back to the Director, Consolidation of Holdings to decide the same afresh after hearing all the parties within a period of 2 months from today. The parties are directed to make themselves available before the Director, Consolidation of Holdings H.P. on 11.5.2007.

There shall be no order as to costs. Copy *Dasti* on usual terms.

(Rajiv Sharma), Judge.

April 25, 2007
Awasthi